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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/562,645

12/28/2005

Josef Kuehlmann

P28903

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7055 7590 07/31/2008  
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EXAMINER

HAYES, KRISTEN C

ART UNIT

PAPER NUMBER

3643

NOTIFICATION DATE

DELIVERY MODE

07/31/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com  
pto@gbpatent.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/562,645	<b>Applicant(s)</b> KUEHLMANN, JOSEF	
	<b>Examiner</b> Kristen C. Hayes	<b>Art Unit</b> 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 16-24 and 41-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-24, 41-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 49-51 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The instant specification (¶0014) discloses friction occurring between the roller and underside of the belt causes the cleaning of the belt and roller. The cleaning happening during a first or second interval is not disclosed. The roller being specifically the first or second return roller is not disclosed.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 16-19, 21, 22 and 49-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhlmann DE 19414574.
5. Regarding claim 16 Kuhlmann discloses a method for operating a manure conveyor device comprising driving a first return roller about which a manure conveyor belt circulates at a first rotational speed, driving a second return roller about which the manure conveyor belt

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circulates at a second rotational speed, wherein during a first interval the first rotational speed exceeds the speed. Not disclosed is a second interval in which the second rotational speed exceeds the first rotational speed. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Kuhlmann to include a second interval wherein the second rotational speed exceeded the first rotational speed so that excrement that was not removed on the first rotation of the conveyor was immediately deflected by second return roller on a subsequent rotation.

6. Regarding claim 17, Kuhlmann further discloses the first and second return rollers being driven in the same direction (Kuhlmann, ¶08, “However, if the reversing roller is propelled likewise...”).

7. Regarding claim 18, Kuhlmann further discloses driving the manure conveyor belt in a circulating manner underneath a manure-permeable floor (Kuhlmann, abstract translation, ¶09).

8. Regarding claim 19, Kuhlmann further discloses the manure conveyor device being structured and arranged for use with livestock breeding operations (Kuhlmann, ¶01).

9. Regarding claims 21 and 22, Kuhlmann discloses a method with the limitations of claim 16 but does not disclose stopping the first and second return roller. However, the rollers of Kuhlmann would eventually be stopped after a first interval of time (whether it be for maintenance, cleaning, etc) before they were started for a second period of time. Regarding the limitation of the period of time being one to four minutes, it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. The time the rollers were stopped would depend on the attention the device needed. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Kuhlmann to stop for

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a period of time between the first interval and the second interval, to perform maintenance on the device as needed.

10. Regarding claims 49 and 51, Kuhlmann further discloses during the first interval the first rotational speed is such that friction occurs between the first return roller and an underside of the conveyor belt and cleaning of the conveyor belt and the first return roller takes place (Kuhlmann, ¶07: line 2- ¶08: line 4).

11. Regarding claim 50, Kuhlmann discloses the method of claim 49 but does not explicitly disclose the friction occurring between the second return roller and the underside of the conveyor belt. However, the second return roller, performing in the same manner as the first return roller (as discussed above) would create friction between the second return roller and the underside of the conveyor belt; cleaning conveyor belt and the second return roller.

12. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhlmann DE 19514574 in view of Eckert et al. US 2006/0260911.

13. Regarding claim 20, Kuhlmann discloses a method with the limitations of claim 20 but does not disclose controlling the first and second rotational speed by frequency controllers. Eckert teaches controlling rotational speeds of roller by frequency controllers (Eckert, ¶0053). It would have been obvious to one of ordinary skill in the art to modify the method of Kuhlmann with the known technique of the frequency controllers of Eckert to provide the predictable results of controlling the rotational speeds of the rollers.

14. Claims 23, 24 and 41 rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhlmann DE 19414574 in view of Frankl US 3,982,499 and Cathers US 4,111,412.

15. Regarding claims 23, 24 and 41 Kuhlmann discloses a method with the limitations of claim 16 but do not disclose the rotational speed of the intervals of the diameter of the return rollers. Frankl teaches a rotational speed of approximately 1 or 1.5 rpm (Frankl, column 7: lines

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21-22). Cathers teaches the diameter of the rollers being approximately 90 to 110 mm (Cathers, column 6: lines 14-34). The examiner notes that it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. The speed at which an object is conveyed is related to the speed and diameter of the rollers. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Kuhlmann with the rotational speeds and diameters of the rollers of Frankl and Cathers to provide the predictable results of changing the conveying speed.

16. Claims 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhlmann DE 19514574 and Cathers in view of Frankl US 3,982,499 and in further view of Gable US 1,177,695.

17. Regarding claims 42 and 43, Kuhlman as modified by Frankl and Cathers discloses the method of claim 23. Kuhlmann discloses the rollers being propelled, but does not does not explicitly disclose a source of power or each roller being driven by different motors. Gable teaches a manure conveyor device with power delivered to both rollers. The power source is not disclosed as an electric motor, however the examiner takes official notice that many rollers of endless conveyors in the art are known to be driven by electric motors (evidenced by US 3,791,348; US 5,817,241). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Kuhlmann in view of Frankl and Cathers by powering both motors separately, as taught by Gable, to provide the predictable result of redundant power sources, and to make the power source electric models as a way to apply a known technique to a known method ready for improvement to yield predictable results.

18. Claims 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhlmann DE 19514574 in view of Ladner US 3,119,374.

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19. Regarding claim 44, Kuhlmann discloses the method for claim 16 but does not disclose driving the conveyor through a trough. Ladner teaches return roller circulating a manure conveyor belt in a trough (Ladner, Figure 2). It would have obvious to one of ordinary skill in the art at the time of the invention to modify the method of Kuhlmann with the trough of Ladner to provide the predictable result of providing a place to collect animal waste.

20. Regarding claim 45, Kuhlmann in view of Ladner further discloses the trough running between a manure collection channel (78) and a urine collection channel (86). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Kuhlmann with the manure and urine collection channel to provide the predictable result of providing a place to collect and separate animal waste.

21. Claims 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhlmann DE 19514574 in view of Custers DE 3528604.

22. Regarding claim 46, Kuhlmann discloses the method of claim 16 but does not disclose a plastic sheet. Custers teaches a ground side of the trough being formed by a plastic sheet. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Kuhlmann with the trough of Custers to provide the predictable result of providing a place to collect animal waste.

23. Regarding claim 47 and 48, Kuhlmann as modified by Custers discloses the method of claim 46. Custers further discloses the trough being formed of a plastic sheet and watertight (Custers, ¶10: lines 2-4).

### ***Response to Arguments***

24. Applicant's arguments with respect to claim 16 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristen C. Hayes whose telephone number is 571-270-3093. The examiner can normally be reached on Monday-Thursday, 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571)272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KCH  
19 July 2008

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